



# STATE OF CONNECTICUT

## INSURANCE DEPARTMENT

### Testimony

### Aging Committee

**Tuesday, February 26, 2013**

#### **Raised S.B. No. 938: AN ACT CONCERNING THE PURCHASE OF MEDICARE SUPPLEMENT POLICIES BY QUALIFIED MEDICARE BENEFICIARIES.**

Senator Ayala, Representative Serra, and members of the Aging Committee, the Insurance Department appreciates the opportunity to provide written testimony on Raised S.B. 938: AAC The Purchase of Medicare Supplement Policies By Qualified Medicare Beneficiaries.

SB 938 is a proposal intended to allow Qualified Medicare Beneficiaries (QMB) through our Connecticut Medicare/Medicaid program to purchase Medicare Supplement policies. Section E of the raised bill states, "To the extent permissible by federal law, each insurance company, fraternal benefit society, hospital service corporation, medical service corporation, health care center or other entity in the state issuing Medicare supplement policies or certificates for plan "A", "B" or "C", or any combination thereof, may deliver or issue for delivery such policy to a qualified Medicare beneficiary, as defined in 42 USC 1396d(p).".

The Insurance Department respectfully cautions members of the Aging Committee that currently the purchase of Medicare supplement policies by qualified Medicare beneficiaries is not permissible under federal law and would likely be subject to the preemption provision of the Supremacy Clause found in Article VI, clause 2 of the U.S. Constitution.

By way of background, there are limited exceptions allowed by the federal government for QMB recipients to purchase a Medicare supplement insurance policy. These limited exceptions are also entered into Connecticut Insurance regulation under 38a-495a-14.

The three exceptions include:

1. The Medicaid program will be paying the premiums for the Medicare Supplement policy.
2. The Medicare Supplement policy issued to a QMB enrollee will cover outpatient prescription drugs. (This is no longer a valid exception since Medicare Supplement

policies are no longer able to cover prescriptions drugs. All Medicare prescription coverage must be offered through a Medicare Part D prescription drug program.)

3. The only medical assistance an individual (including a QMB enrollee) is entitled to under the Medicaid program is with the Medicare cost sharing described in section 1396d(p)(3)(A)(ii), of the federal regulations, which is defined as Medicare Part B premiums. (Connecticut's QMB program not only pays the Medicare Part B premium, but also the co-pays and co-insurance under Medicare Parts A and Part B. Therefore, the Connecticut QMB program does not qualify for this exception.)

To comply with federal and state regulations on this topic, the Medicare Supplement insurers are required to screen for exceptions # 1 and # 3 on their applications for insurance.

QMB recipients would be declined by the Medicare Supplement insurers as not meeting the criteria for the three exceptions permitted under federal and state law. Further even with a change in Connecticut law, the sale of Medicare Supplement plan to a QMB recipient would be pre-empted by federal regulation.